

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1710**

---

**Introduced by Assembly Member Yamada**

February 15, 2012

---

An act to amend Sections 1416.36, 1416.38, and 1416.70 of the Health and Safety Code, relating to health and care facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1710, as amended, Yamada. Nursing home administrators: fees and fines.

Existing law, the Nursing Home Administrators' Act, provides for the licensing of nursing home administrators by the State Department of Public Health. Existing law prescribes specified licensing fees, and requires that the fees be adjusted annually, as directed by the Legislature in the annual Budget Act, by an amount not to exceed the California Consumer Price Index, as specified. Existing law provides for the issuance of citations and administrative fines for the violation of any state or federal statute or regulation governing licensed nursing home administrators. Existing law requires that these fees and associated fines be deposited in the Nursing Home Administrator's State License Examining Fund, a continuously appropriated fund.

This bill would eliminate the Nursing Home Administrator's State License Examining Fund and instead require that these fees and fines be deposited into the State Department of Public Health Licensing and Certification Program Fund. This bill would authorize the department

to adjust the fees, and would remove the adjustment limitation relating to the California Consumer Price Index.

This bill would require the department *to conduct a staffing and systems analysis, and by March 31, 2013, to post a report detailing this analysis on the department's Internet Web site, and to submit it to the appropriate policy and fiscal committees of the Legislature. The bill would require the department, by January 15 of each year, to prepare certain reports a specified report* relating to nursing home administrator fees, fee adjustments, and nursing home administration generally. The bill would require the department to submit ~~these reports~~ *this report* to the appropriate policy and fiscal committees of the Legislature and to post ~~these reports~~ *this report* on its Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. It is the intent of the Legislature that activities of*  
2     *the Nursing Home Administrator Program related to licensure of*  
3     *nursing home administrators be supported by fee revenue that is*  
4     *sufficient to fund these activities.*

5     ~~SECTION 1.~~

6     *SEC. 2.* Section 1416.36 of the Health and Safety Code is  
7     amended to read:

8     1416.36. (a) The fees prescribed by this chapter are as follows:

9     (1) The application fee for reviewing an applicant's eligibility  
10    to take the examination shall be twenty-five dollars (\$25).

11    (2) The application fee for persons applying for reciprocity  
12    consideration licensure under Section 1416.40 shall be fifty dollars  
13    (\$50).

14    (3) The application fee for persons applying for the AIT Program  
15    shall be one hundred dollars (\$100).

16    (4) The examination fees shall be:

17    (A) Two hundred seventy-five dollars (\$275) for an automated  
18    national examination.

19    (B) Two hundred ten dollars (\$210) for an automated state  
20    examination or one hundred forty dollars (\$140) for a written state  
21    examination.

22    (5) The fee for an initial license shall be one hundred ninety  
23    dollars (\$190).

1 (6) The renewal fee for an active or inactive license shall be  
2 one hundred ninety dollars (\$190).

3 (7) The delinquency fee shall be fifty dollars (\$50).

4 (8) The duplicate license fee shall be twenty-five dollars (\$25).

5 (9) The fee for a provisional license shall be two hundred fifty  
6 dollars (\$250).

7 (10) The fee for endorsement of credentials to the licensing  
8 authority of another state shall be twenty-five dollars (\$25).

9 (11) The preceptor certification fee shall be fifty dollars (\$50)  
10 for each three-year period.

11 (12) The biennial fee for approval of a continuing education  
12 provider shall be one hundred fifty dollars (\$150).

13 (13) The biennial fee for approval of a continuing education  
14 course shall be not more than fifteen dollars (\$15).

15 (b) If the revenue projected to be collected is less than the  
16 projected costs for the budget year, the department may propose  
17 that fees be adjusted to an amount sufficient to cover the reasonable  
18 regulatory costs to the department. Commencing February 1, 2013,  
19 and every February 1 thereafter, the department shall publish a list  
20 of proposed adjustments to fees pursuant to this section.

21 (c) (1) The department shall, within 30 days of the enactment  
22 of the annual Budget Act each year, publish a list of actual  
23 numerical fee charges as adjusted pursuant to this section. The  
24 final fee list, with an explanation of any adjustment, shall be  
25 published by all of the following means:

26 (A) Issuing a letter to all licensed nursing home administrators,  
27 all skilled nursing facilities and intermediate care facilities, and  
28 all continuing education providers.

29 (B) Posting the list on the department's Internet Web site.

30 (C) Including the final fee list as part of the licensing application  
31 package.

32 (2) (A) This adjustment of fees and the publication of the fee  
33 list shall not be subject to the requirements of Chapter 3.5  
34 (commencing with Section 11340) of Part 1 of Division 3 of Title  
35 2 of the Government Code.

36 (B) (i) *For purposes of ensuring efficient and effective*  
37 *utilization of fees collected and proper allocation of departmental*  
38 *resources for the administration of activities required by this*  
39 *chapter, the department shall conduct a staffing and systems*  
40 *analysis. By March 31, 2013, the department shall make a report*

1 *detailing this analysis available to the public by posting it on the*  
2 *department's Internet Web site, and by submitting it to the*  
3 *appropriate policy and fiscal committees of the Legislature.*

4 *(ii) The report submitted pursuant to clause (i) shall be*  
5 *submitted in compliance with Section 9795 of the Government*  
6 *Code.*

7 *(iii) Pursuant to Section 10231.5 of the Government Code, the*  
8 *requirement for submitting a report imposed pursuant to this*  
9 *subparagraph is inoperative on January 1, 2017.*

10 (d) (1) By January 15 of each year, the department shall prepare  
11 ~~the following reports and shall make those reports a report~~  
12 ~~containing the following information, and shall make this report~~  
13 ~~available to the public by submitting them it to the appropriate~~  
14 ~~policy and fiscal committees of the Legislature, and by posting~~  
15 ~~them it on the department's Internet Web site:~~

16 (A) ~~A report of all Estimates of costs to implement activities~~  
17 ~~required by this chapter and estimated fee revenue. As part of this~~  
18 ~~report, the department shall recommend adjustments to fees based~~  
19 ~~on projected workload and costs. The cost estimates and estimated~~  
20 ~~fees shall be based on appropriation amounts in the Governor's~~  
21 ~~proposed budget for the next fiscal year.~~

22 (B) ~~A staffing and systems analysis to ensure efficient and~~  
23 ~~effective utilization of fees collected and proper allocation of~~  
24 ~~departmental resources for the administration of activities required~~  
25 ~~by this chapter. This analysis shall include the~~

26 (B) *Recommended adjustments to fees based on projected*  
27 *workload and costs.*

28 (C) *An analysis containing the following information for the*  
29 *current fiscal year and each of the previous four fiscal years:*

30 (i) The number of persons applying for a nursing home  
31 administrator's license, the number of nursing home administrator  
32 licenses approved or denied, and the number of nursing home  
33 administrator licenses renewed.

34 (ii) The number of applicants taking the nursing home  
35 administrator exam and the number of applicants who pass or fail  
36 the exam.

37 (iii) The number of persons applying for, accepted into, and  
38 completing the AIT Program.

39 (iv) The number, source, and disposition of complaints made  
40 against persons in the AIT Program and licensed nursing home

1 administrators, including the length of time between receipt of the  
2 complaint and completion of the investigation.

3 (v) The number and type of final administrative, remedial, or  
4 disciplinary actions taken against licensed nursing home  
5 administrators.

6 (vi) A listing of the names and nature of violations for individual  
7 licensed nursing home administrators, including final  
8 administrative, remedial, or disciplinary actions taken.

9 (vii) The number of appeals, informal conferences, or hearings  
10 filed by nursing home administrators or held, the length of time  
11 between the request being filed and the final determination of the  
12 appeal, and the number of administrative, remedial, or disciplinary  
13 actions taken.

14 (2) The reports required to be submitted pursuant to paragraph  
15 (1) shall be submitted in compliance with Section 9795 of the  
16 Government Code.

17 ~~SEC. 2.~~

18 *SEC. 3.* Section 1416.38 of the Health and Safety Code is  
19 amended to read:

20 1416.38. Within 10 days after the beginning of every month,  
21 all fees collected by the program for the month preceding, under  
22 this chapter, shall be paid into the State Department of Public  
23 Health Licensing and Certification Program Fund established by  
24 Section 1266.9, to defray the expenses of the program and in  
25 carrying out and enforcing the provisions of this chapter.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 1416.70 of the Health and Safety Code is  
28 amended to read:

29 1416.70. (a) The program shall establish a system for the  
30 issuance of citations to licensees, examinees, or participants of  
31 any program activity offered or approved by the program. The  
32 citations may contain an order of abatement, an order to pay an  
33 administrative fine assessed by the program chief, or both, where  
34 the licensee, examinee, or participant is in violation of any state  
35 or federal statute or regulation governing licensed nursing home  
36 administrators.

37 (b) The system shall contain all of the following provisions:

38 (1) Citations shall be in writing and shall describe with  
39 particularity the nature of the violation, including specific reference  
40 to the provision of law determined to have been violated.

1 (2) Where appropriate, the citation shall contain an order of  
2 abatement fixing reasonable time for abatement of the violation.

3 (3) (A) Administrative fines assessed by the program shall be  
4 separate from and shall not preclude the levying of any other fines  
5 or any civil or criminal penalty.

6 (B) In no event shall the administrative fine assessed by the  
7 program be less than fifty dollars (\$50) or exceed two thousand  
8 five hundred dollars (\$2,500) for each violation. The total  
9 assessment shall not exceed ten thousand dollars (\$10,000) for  
10 each investigation or for counts involving fraudulent billings  
11 submitted to insurance companies, Medi-Cal, or Medicare  
12 programs.

13 (4) In assessing a fine, the program shall give due consideration  
14 to the appropriateness of the amount of the fine with respect to  
15 factors such as the gravity of the violation, the good faith effort of  
16 the licensee, examinee, or participant, the unprofessional conduct,  
17 including, but not limited to, incompetence and negligence in the  
18 performance of the duties and responsibilities of an administrator,  
19 the extent to which the cited person has mitigated or attempted to  
20 mitigate any damage or injury caused by his or her violation,  
21 whether the violation was related to patient care, the history of any  
22 previous violations, and other matters as may be appropriate.

23 (5) A citation or fine assessment issued pursuant to a citation  
24 shall inform the licensee, examinee, or participant, that if he or  
25 she desires a hearing to contest the finding of a violation, the  
26 hearing shall be requested by written notice to the program within  
27 30 days after the date of issuance of the citation or assessment. A  
28 licensee may, in lieu of contesting a citation pursuant to this  
29 section, transmit to the state department 75 percent of the amount  
30 specified in the citation for each violation within 15 business days  
31 after the issuance of the citation.

32 (6) Failure of a licensee, examinee, or participant to pay a fine  
33 within 30 days of the date of the assessment, unless the citation is  
34 being appealed, may result in further disciplinary action being  
35 taken by the program. Where a citation is not contested and a fine  
36 is not paid, the full amount of the assessed fine, along with any  
37 accrued penalty interest, shall be added to the fee for renewal of  
38 the license. A license shall not be renewed without payment of the  
39 renewal fee, fine, and accrued interest penalty. A citation may be  
40 issued without the assessment of an administrative fine.

1 (c) Assessment of administrative fines may be limited to only  
2 particular violations of the applicable licensing act.  
3 Notwithstanding any other provisions of law, where a fine is paid  
4 to satisfy an assessment based on the finding of a violation,  
5 payment of the fine shall be represented as satisfactory resolution  
6 of the matter for purposes of public disclosures. Administrative  
7 fines collected pursuant to this section shall be deposited in the  
8 State Department of Public Health Licensing and Certification  
9 Program Fund established by Section 1266.9.

O